

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Phillip Lee Spears, Jr.,)	
)	Civil Action No. 6:11-cv-03175-JMC
Plaintiff,)	
)	
v.)	ORDER
)	
)	
South Carolina Department of)	
Corrections, et al.,)	
)	
Defendants.)	
)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report"), [Doc. 67], filed on May 25, 2012, recommending that Plaintiff's Motion to Amend [Doc. 64] be granted to the extent it requests dismissal of claims against Defendants Janice L. Montgomery, K. Tayla, Robin Elerby, A. Brown, Leon Johnson, Michael Swartz, Ms. Brown, Ann Hallman, and Silvia Roberts and that Plaintiff's Motion to Amend be denied in all other regards. Also before the court is the Magistrate Judge's Report [Doc. 85], filed June 21, 2012, recommending dismissal of the same defendants, but allowing specific amendments to Plaintiff's Amended Complaint. Plaintiff brought this action seeking relief pursuant to Title 42 U.S.C. §1983. The Reports set forth in detail the relevant facts and legal standards on these matters which the court incorporates herein without a recitation.

The Magistrate Judge's Reports are made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71

(1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Reports [Doc. 67 at 3 and Doc. 85 at 5]. However, Plaintiff filed no objections to the Reports.

In the absence of objections to the Magistrate Judge's Reports, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Reports and Recommendations and the record in this case, the court **ACCEPTS** the Magistrate Judge's Reports and Recommendations. [Docs. 67 and 85]. It is therefore **ORDERED** that Defendants Janice L. Montgomery, K. Tayla, Robin Elerby, A. Brown, Leon Johnson, Michael Swartz, Ms. Brown, Ann Hallman, and Silvia Roberts are **DISMISSED** from the case pursuant to Plaintiff's requested amendment. Plaintiff's Motion to Amend [Doc. 64] is **DENIED** in all other respects. However, Plaintiff's Motion to Amend [Doc. 74] as to paragraphs 106, 129, and 130 are **GRANTED**, but his request to amend paragraph 122 is **DENIED**. Finally,

Plaintiff's Motion to Dismiss [Doc. 44] is hereby rendered **MOOT** as to the above listed Defendants.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

Greenville, South Carolina
July 27, 2012.